

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 1128-01
Bill No.: HB 381
Subject: Tobacco and Tobacco Products; Revenue Dept.; Crimes and Punishment;
Attorney General; Highway Patrol
Type: Original
Date: January 30, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$205,291)	(\$203,466)	(\$208,626)
Total Estimated Net Effect on <u>All</u> State Funds	(\$205,291)	(\$203,466)	(\$208,626)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Local Government	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 4 pages.

FISCAL ANALYSIS

ASSUMPTION

Officials of the **Department of Public Safety (DPS)**, **Office of State Courts Administrator (CTS)**, **Office of Prosecution Services (OPS)** and the **Attorney General's Office (AGO)** state this proposal would have minimal or no fiscal impact to their agencies and any costs involved could be absorbed.

In a similar proposal, officials from the **Office of Administration, Budget and Planning (BAP)** assumed this legislation would have no fiscal impact to its agency.

Officials from the **Office of the State Public Defender (SPD)** assume this legislation would not fiscally impact SPD since the existing staff could provide representation for those 1-5 cases arising where indigent persons were charged with fraudulent tax stamp utilization. However, passage of more than one similar bill would require SPD to request increased appropriations to cover the cumulative cost of representing the indigent accused in the additional cases.

Officials from the **Department of Corrections (DOC)** assume this proposal would have zero to minimal fiscal impact to its agency. DOC states the need for additional capital improvements is not anticipated at this time. However the cumulative effect of various new legislation, if passed into law, could result in the need for additional capital improvements funding if the total number of new offenders exceeds current planned capacity.

Currently, DOC cannot predict the number of new commitments which may result from the creation of the offenses outlined in this proposal. An increase in commitments depends on the utilization by prosecutors and the actual sentences imposed by the court. If additional persons are sentenced to the custody of DOC due to the provisions of this legislation, DOC will incur a corresponding increase in operational cost either through incarceration (FY99 average of \$35.61 per inmate, per day) or through supervision provided by the Board of Probation and Parole (FY99 average of \$2.47 per offender, per day).

The following factors contribute to DOC's minimal assumption: DOC assumes the narrow scope of the crime will not encompass a large number of offenders; the low felony status of the crime enhances the possibility of plea-bargaining or imposition of a probation sentence; and the probability exists that offenders would be charged with a similar but more serious offense or that sentences may run concurrent to one another.

In summary, supervision by DOC through probation or incarceration would result in some additional costs, but it is assumed the impact would be \$0 or a minimal amount that could be absorbed within existing resources.

ASSUMPTION (Continued)

In a similar proposal, officials of the **Department of Revenue (DOR)** state this legislation, as written, would create a felony for the sale or distribution of gray market cigarettes.

DOR will be responsible for the revoking or suspension of the license of the wholesalers if they are violating the cigarette statutes.

DOR has become aware that for a state to fully participate in the tobacco settlement agreement they must use due diligence to enforce the agreement and their tobacco laws. At present Missouri does no field enforcement of the tobacco law. DOR feels to ensure full participation (get fair share of the money), DOR will need to have a field enforcement presence as well as the ability to fully track all payments from both the participants and those who chose not to participate and to make payments to the escrow fund. DOR will also need to closely watch the grey market area of sales since it is quickly becoming a black market.

To properly enforce Missouri's tobacco laws with this agreement in place will require 4 field agents and 2 tax audits analysts. The field agents will be responsible for closely checking each retailer of tobacco products in this state, seize unlawful product, and require that all taxes that are due are paid. The two tax audit analysts would be responsible for coordination of field agent activity, and an audit process to be certain that both the participants and non-participants make proper payments.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
GENERAL REVENUE FUND			
<u>Costs - Department of Revenue</u>			
Personal Service (5 FTE)	(\$115,140)	(\$141,622)	(\$145,163)
Fringe Benefits	(\$38,376)	(\$47,203)	(\$48,383)
Expense and Equipment	(\$51,775)	(\$14,641)	(\$15,080)
Total <u>Costs</u> - DOR	<u>(\$205,291)</u>	<u>(\$203,466)</u>	<u>(\$208,626)</u>
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$205,291)</u>	<u>(\$203,466)</u>	<u>(\$208,626)</u>
<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
	\$0	\$0	\$0

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This bill bans the sale and distribution of "gray market cigarettes." Gray market cigarettes are cigarettes that are packaged for sale outside the United States and may not contain required health warnings and ingredient lists. These cigarettes may also be distributed under names and packages similar to cigarettes manufactured for sale in the United States. Persons are prohibited from affixing any stamp or meter impressions to gray market cigarettes. Persons violating this law are guilty of a class D felony.

The bill allows the Director of the Department of Revenue to revoke or suspend the license of a wholesaler who violates this law. In addition, the director may impose a civil penalty not greater than 500% of the retail value of the cigarettes involved or \$5,000. Gray market cigarettes sold or distributed in violation of this law are considered contraband and subject to seizure and forfeiture. In addition, violations are subject to remedies or penalties available for a violation of unlawful trade practices. This law is to be enforced by the Director of Revenue through the State Highway Patrol and all local police authorities. The Attorney General has concurrent power with the prosecuting attorneys of the state to enforce this law.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Office of Administration - Budget and Planning
Department of Public Safety
Office of State Courts Administrator
Office of the State Public Defender
Office of Prosecution Services
Office of the Attorney General
Department of Corrections
Department of Revenue



Jeanne Jarrett, CPA
Director
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